SBCivil Writ Petition No.5291/1993
(Smt.Shyama v. State of Raj. & Ors.)

Date of Order :: 11th November, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. B.K.Bhatnagar, for thepetitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By the order dated 9.9.1983 the Estate Officer, Department of Devasthan, Government of Rajasthan, Jaipur ordered for eviction of the petitioner from occupation of shop No.3 situated at Mandir Gangshyamji, Juni Mandi, Jodhpur.

Being aggrieved by the order aforesaid the petitioner preferred an appeal under Section 9 of the Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1964 (hereinafter referred to as "the Act of 1964") before the District Judge, Jodhpur. The appeal preferred was barred by limitation, therefore, the appellant petitioner also preferred an application under Section 5 of the Limitation Act with a prayer to condone delay in filing the appeal.

The petitioner stated in the application for condonation of delay that he came to know about the order passed by the Estate Officer only on 15.4.1986 when the officers of the Devasthan Department came to her shop to get the same evicted from her possession. Learned appellate court rejected the application preferred under Section 5 of the Limitation Act by holding that the averment contained in the application are wrong as a notice under Section 5(1) of the Act of 1964 was sufficiently served upon the appellant petitioner. The appellant petitioner in spite of service did not choose to appear before the Estate Officer, therefore, it could not be said that she was

not aware of the proceedings initiated under the Act of 1964.

Heard counsel for the parties.

The sole contention of counsel for the petitioner is that the petitioner came to know about the order passed by the Estate Officer only on 15.4.1986. I do not find any force in the contention so raised.

Learned appellate court discussed this issue at length while deciding the appeal. It is held by the appellate court that the notice under Section 5(1) of the Act of 1964 was properly served upon the appellant petitioner and, therefore, it cannot be presumed that she was not aware of the proceedings initiated under the Act of 1964. It is further pertinent to note that the petitioner was evicted from the shop in question much back in the year 1986.

In totality of facts and circumstances of this case I do not find any error in the order impugned warranting interference of this Court under Article 226 of the Constitution of India. As such, the writ petition is dismissed with no order as to costs.

( GOVIND MATHUR ),J.

kkm/ps.